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Via email: [regs.comments@federalreserve.gov](mailto:regs.comments@federalreserve.gov)

November 10, 2011

Jennifer J. Johnson, Secretary  
Board of Governors of the Federal Reserve System  
20th Street and Constitution Avenue, NW  
Washington, D.C. 20551

RE: Proposed Agency Information Collection Activities; Comment Request: Proposed Regulation II Government-Issued, General-Use Prepaid Card Issuer Survey (FR 3063a) and Government-Issued, General-Use Prepaid Card Government Survey (FR 3063b).

Dear Ms. Johnson:

The Board of Governors of the Federal Reserve System (the "Board") has issued for comment proposed surveys to prepaid card issuers as a part of implementing the debit card interchange fee provisions of Section 920(a) of the Electronic Funds Transfer Act ("Section 920(a)"). JPMorgan Chase & Co., on behalf of JPMorgan Chase Bank, N.A., a major government prepaid card issuer, and its other subsidiaries, appreciates the opportunity to submit this response to the Board.

JPMorgan Chase & Co. (NYSE: JPM) ("J.P. Morgan") is a leading global financial services firm with assets of \$2.2 trillion and operations in more than 60 countries. The firm is a leader in investment banking, financial services for consumers, small business and commercial banking, merchant acquiring, financial transaction processing, asset management and private equity. A component of the Dow Jones Industrial Average, JPMorgan Chase & Co. serves millions of consumers in the United States and many of the world's most prominent corporate, institutional and government clients under its J.P. Morgan and Chase brands. Information about JPMorgan Chase & Co. is available at [www.jpmorganchase.com](http://www.jpmorganchase.com).

## **A. Executive Summary**

The Board has drafted two surveys (FR 3063a and FR 3063b, "draft surveys") to support its creation of an annual report to Congress (required by 15 U.S.C. 1693o-2) on the prevalence of the use of general-use prepaid cards in federal, state, or local government-administered payment programs, and the interchange and cardholder fees charged with respect to the use of such general-use prepaid cards.

J.P. Morgan has reviewed the draft surveys and offers commentary in many areas where it has concerns regarding the information requested by the survey.

**B. Board's Request for Issuers to Individually Report for Each Program**

The Board is suggesting it will request individual responses for each and every program processed by issuers. The burden for responding in this manner is significant for issuers like J.P. Morgan which supports literally hundreds of government programs and offers diminishing return to the Board as it will be likely to simply re-aggregate the data to put it into a usable form.

Aggregation of multiple customers should be anticipated and allowed to reduce the burden on issuers. J.P. Morgan believes aggregation will not impede the Board's ability to provide a full and complete report to Congress as required.

**C. Inclusion of Programs Not Covered by Dodd-Frank**

The survey's Glossary of Terms includes needs-tested programs such as the Supplemental Nutritional Assistance Program (SNAP), Temporary Assistance to Needy Family (TANF) and Women, Infants and Children (WIC) programs. These programs and other Electronic Benefits Transfer (EBT) programs are not general-use prepaid cards and are specifically excluded from Regulation II by Section 1075 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. Accordingly, J.P. Morgan suggests the Board exclude EBT programs from the scope of the survey.

**D. Clarification of Information Requested**

There are a number of instances where the survey requests information that is not clearly defined, which will lead to various responses from issuers based upon their interpretation. Examples include:

- a. Section VII. When asking for fees paid by issuers, the survey fails to ask for balance inquiry interchange fees and switch fees, both of which are directly related to card processing costs.
- b. Section IX.2 and Section X. The various fee types within this section are not clearly defined which will lead to varied and inconsistent responses between institutions. The Board should be explicit in the types of transactions that should be included.
- c. Sections IX.2.a and IX.2.g. In lieu of terms such as "routine" or "penalty," we recommend neutral or objective terminology be used when requesting and reporting fee data.
- d. Section IX.2.e. "Over The Counter (OTC) Fees" asks a question about fees without asking a counter-point question on the overall frequency or number of transactions performed. This incomplete data may lead the Board to inaccurate conclusions that all OTC transactions generate a fee.

**E. Specifically Requested Comment**

Accompanying its release of the draft surveys, the Board specifically requested comment in three different areas, addressed below.

- a. *What information collected by the issuer survey (FR 3063a) would consist of trade secrets or commercial or financial information;*

With the exception of the basic program metrics requested in Section III of the survey, J.P. Morgan views nearly the entirety of the data requested by the Board as proprietary information including confidential commercial and financial information, the disclosure of which may cause a competitive disadvantage to JPMorgan Chase.

- b. Whether information collected by the government survey (FR 3063b) is publicly available information; and*

J.P. Morgan believes the information requested by the government survey (3063b) is information that is, or should be, publicly available.

- c. Whether there are issuers of government-administered, general-use prepaid cards that are not depository institutions, and, if so, should the depository institution holding the insured deposits underlying the cards be required to report on behalf of those issuers.*

J.P. Morgan believes the depository institutions holding insured deposits underlying government prepaid cards should be required to report on behalf of the non-bank issuers they service.

As the Board is likely aware, there are numerous non-bank issuers (i.e. program administrators) supporting government prepaid card programs across the country. The Board should compel any depository institution holding insured deposits to respond to the survey in the same manner it requires self-processing issuers such as J.P. Morgan. Compelling all depository institutions to respond is the only way to assure the Board receives information from the full spectrum of government prepaid card programs across the country.

To assure it is surveying all necessary depository institutions, we recommend the Board create a third government prepaid card survey (3063c), directed to networks, requesting a list of issuers and their processors/program administrators that have registered BINs with the designation of "government exempt" from Regulation II's interchange cap provisions. Through this list, the Board can validate it has received responses from all depository institutions required to complete survey 3063a.

## **F. Conclusion**

We are supportive of the Board's desire to collect robust and complete expense and cardholder fee data to support its report to Congress. However, we wish to express our concern regarding the completeness of the data-set the Board has requested. We believe the data requested presents an incomplete view of the overall business since all revenue components of the business are

included, but only partial expense items. Sample expense categories not reflected include over-the-counter withdrawal interchange fees, network switch fees, card issuance and customer service costs, clients incentive payments, etc., all of which are directly attributable to the cost of operating a prepaid card program. Without complete information and full context, we believe the data may not fully represent the financial dynamics of the program.

Thank you for providing J.P. Morgan with the opportunity to comment on the Board's draft surveys. We appreciate the Board's consideration of the views expressed within this letter and would be pleased to discuss any part of our commentary at the Board's convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Paton", written in a cursive style.

Christopher J. Paton  
Managing Director  
J.P. Morgan Chase